

FTC SUMMARY JUDGMENT EXHIBIT 37

Supplemental Declaration of FTC Investigator Elizabeth Kwok

**SUPPLEMENTAL DECLARATION OF
FTC INVESTIGATOR ELIZABETH KWOK
PURSUANT TO 28 U.S.C. § 1746**

Pursuant to 28 U.S.C. § 1746, I, Elizabeth Kwok, declare that I have personal knowledge of the facts set forth below and am competent to testify about them. If called as a witness, I could and would testify as follows:

1. I am a citizen of the United States and over the age of eighteen (18) years old. I am employed with the Federal Trade Commission (“FTC”). I began working at the FTC in June 2013 as an investigator in the FTC’s Division of Financial Practices (“DFP”). In January 2021, I became an Acting Assistant Director in the FTC’s Division of Litigation Technology & Analysis (“DLTA”), although I continued some of my investigator duties with DFP. In February 2022, I became a permanent Assistant Director in DLTA. My office address is 600 Pennsylvania Avenue, N.W., Washington, DC 20580.
2. As an investigator, my responsibilities included investigating parties suspected of engaging in unfair or deceptive acts or practices in violation of the Federal Trade Commission Act (“FTC Act”) and any other laws or rules enforced by the FTC. In the normal course of carrying out my investigative responsibilities, I regularly used Internet search engines, electronic databases, spreadsheet software, and a variety of other software-based investigative and organizational tools. I regularly reviewed a variety of records, including bank data, website registration data, and telecommunications records, engaging in analysis for indicators of fraudulent activity.
3. I am a Certified Fraud Examiner (“CFE”), a certification I first obtained in February 2012. To become a CFE, I had to pass an exam which tested four subject areas: (1) fraud prevention and deterrence; (2) fraudulent financial transactions; (3) fraud investigations; and (4) legal elements of fraud. I have also obtained the Certified Anti-Money Laundering

Specialist (“CAMS”) certification, which I first obtained in December 2016. To earn my CAMS certification, I had to pass an exam which tested four subject areas: (1) money laundering risks and methods; (2) industry standards for money laundering investigations, including Financial Action Task Force (FATF) Recommendations and the Basel Committee’s Report on Consumer Due Diligence; (3) the important elements of an Anti-Money Laundering (AML) program; and (4) how to conduct and support a money laundering investigation.

4. As part of my duties at the FTC, I was assigned to the FTC’s investigation of and case against Defendants RCG Advances, LLC, Robert Giardina, and Jonathan Braun (collectively referred to as “Defendants”).
5. During the course of the investigation and litigation, I acquired personal knowledge and information about the facts stated here, and if called, would testify to the same. My conclusions are based on my investigation of Defendants, which included review of consumer complaints about the Defendants’ business practices and review of documents obtained by the FTC, including, but not limited to, documents provided by Defendants, corporate records, website and domain registration documents, telephone records, and financial records.
6. One of my duties is to serve as document custodian for the FTC in this matter, a duty I have continued while serving first as Acting Assistant Director and now Assistant Director in DLTA. I maintain the original copies of any documents the FTC receives, including those received in hard-copy or digital format, in a locked drawer in my office. I maintain original copies of the FTC’s electronic documents in a secured-access folder on the FTC’s computer network. Copies of any documents referred to in my declaration are available in unredacted form for viewing upon request.

7. Through subpoenas issued to TD Bank, N.A., PNC Financial Services Group, Inc., and Santander Bank, N.A. the FTC obtained records relating to a company called Kessef Capital, LLC. Responsive documents included monthly statements and account opening data. Documents show that Kessef Capital's authorized signatories include company officers Eliezer Schwartz and Jacob Braun.
8. A review of Kessef Capital's monthly statements reflects that, between January 2014 and October 2017, RCG Advances transferred \$37,050,192.07 to Kessef Capital's TD Bank account. Additionally, between November 2017 and January 2018, RCG Advances transferred \$7,069,880 to Kessef Capital's PNC Bank account. In total, TD Bank and PNC Bank records reflect that RCG Advances transferred a total of \$44,120,072.07 to Kessef Capital between January 2014 and January 2018.
9. LexisNexis maintains a database called Accurint, a widely accepted locate-and-research tool available to government, law enforcement, and commercial customers. Accurint uses public records and non-public information to provide fraud detection services. The FTC has access to Accurint. Thomson Reuters maintains a similar database called CLEAR that provides government investigators with data points of individuals or businesses including, among other things, credit header, phone, and motor vehicle registration data. The FTC also has access to CLEAR.
10. Accurint and CLEAR reports on Kessef Capital reflect that Kessef Capital's principals, Eliezer Schwartz and Jacob Braun, are close relations to Defendant Jonathan Braun.
11. Documents produced by RCG Advances include numerous emails sent from Defendant Jonathan Braun using a kessefcapitalgroup.com email domain.
12. In his declaration, FTC Expert Dr. Patrick McAlvanah discussed that there were 1,499 funded deals Defendants entered into with small business consumers between August 2016

and November 2018. Of those 1,499 deals, 1,354 had at least one payment withdrawn by Defendants on or after June 10, 2017.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 1, 2022, in Washington, D.C.



Elizabeth Kwok